

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 28 of 1993
to
WEALTH TAX REFERENCE No 28D of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH TAX

Versus

HARSHADKUAMR N DALAL

Appearance:

1. WEALTH TAX REFERENCE No. 28 of 1993
MR BB NAIK with MR MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 07/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In these references at the instance of the revenue, the Income-tax Appellate Tribunal, Ahmedabad has referred the following common question under Section 27 of the Wealth-tax Act, 1957 in respect of assessment years 1982-83 to 1986-87 :-

"Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in holding that the goodwill of M/s C.J. Patel & Co. was not to be considered for determining the value of assessee's share of interest in the said firm ?"

2. We have heard Mr BB Naik, learned counsel for the revenue and Mr RK Patel, learned counsel for the respondent-assessee.

3. Our attention is invited to the decision of this Court in the case of this very assessee reported in (1996) 219 ITR 592 wherein this Court held that where the goodwill has not been purchased, it is not covered by Rule 2C(d) of the Wealth-tax Rules and such goodwill is not to be taken into account for determining the share of a partner in the firm in question.

4. Following the aforesaid decision, we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

5. The references accordingly stand disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-